

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

NICHOLAS BERGERON and BARBARA MYCEK,  
individually and on behalf of others similarly situated,

Plaintiffs,

v.

ROCHESTER INSTITUTE OF TECHNOLOGY,

Defendant.

Case No. 6:20-cv-06283

**NOTICE OF SUPPLEMENTAL  
AUTHORITY**

Defendant Rochester Institute of Technology (“RIT”) hereby provides this notice of supplemental authority of the Court’s decision and order granting Occidental College’s motion to dismiss pursuant to Fed. R. Civ. Pro. 12(b)(1) and 12(b)(6) in the action *Lindner v. Occidental College*, Case No. 2:20-cv-08481-JFW-RAO (C.D. Cal.). A true and correct copy of the decision is annexed as Exhibit 1.

Plaintiff Linden, the parent of an adult university student, brought a putative class action asserting claims for breach of contract, unjust enrichment, conversion, and money had and received. The Court dismissed the complaint in its entirety with prejudice and without leave to amend on the grounds that (i) the plaintiff did not suffer any injury and thus lacked standing; (ii) the educational malpractice doctrine barred all claims; (iii) the agreements between the university and students contained no promise of in-person instruction; and (iv) plaintiff’s quasi-contract and tort claims were barred because a contract governs.

Dated: New York, New York  
December 14, 2020

SANTIAGO BURGER LLP

By: /s/ Fernando Santiago

Fernando Santiago  
fernando@litgrp.com  
2280 East Avenue, 2<sup>nd</sup> Floor  
Rochester, NY 14610  
Tel: (585) 563-2400  
Fax: (585) 563-7526

HOLLAND & KNIGHT LLP

By: /s/ Qian Shen  
Robert J. Burns  
Qian (Sheila) Shen  
robert.burns@hklaw.com  
qian.shen@hklaw.com  
31 West 52<sup>nd</sup> Street  
New York, NY 10019  
Tel: (212) 513-3200  
Fax: (212) 385-9010

Paul G. Lannon (*pro hac vice*)  
paul.lannon@hklaw.com  
10 St. James Avenue, 11<sup>th</sup> Floor  
Boston, MA 02116  
Tel: (617) 523-2700  
Fax: (617) 523-6850